



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

FEB 4 1974

THE ADMINISTRATOR

Dear Governor Lucey:

Your request dated November 7, 1973, for approval to conduct a State Permit Program pursuant to the provisions of the National Pollutant Discharge Elimination System (NPDES) under Section 402 of the Federal Water Pollution Control Act of 1972 (the "Act") is hereby approved. Accordingly, as of this date I am suspending the issuance of permits by the Environmental Protection Agency under subsection (a) of Section 402 of the Act as to all discharges in the State of Wisconsin other than those from agencies and instrumentalities of the Federal Government.

The program that you conduct pursuant to this authority must at all times be in accordance with Section 402 of the Act, all guidelines promulgated pursuant to Section 304(h)(2) of the Act, and the Memorandum of Agreement between the Regional Administrator of EPA's Region V and the Administrator of the Division of Environmental Protection, Wisconsin Department of Natural Resources, which I have also approved today (copy enclosed).

In addition, this approval is based upon Mr. Frangos' December 27 letter to Mr. McDonald in which he states that interim effluent limitations will be adopted by the DNR as emergency rules by February 1, 1974 for the categories of sources listed in Wisconsin regulation NR 220. I understand that these rules as well as your procedural rules have been adopted and are presently in effect.

I strongly support Wisconsin's goal, as set forth in paragraph 4 of the November 29, 1973 letter to Region V, of issuing NPDES permits to all dischargers in the State of Wisconsin by December 31, 1974. We note with concern that some States which have assumed the NPDES program have not taken their permit issuance commitments seriously, thereby compromising their chances of meeting the December 31 deadline. Because all facilities discharging without an NPDES permit after that date will be in violation of the Act and possibly subject to severe penalty provisions, we vigorously urge the State of Wisconsin to honor this important commitment. In order to facilitate EPA's review of the State's progress in processing permits, we are

ENCL 2

asking our Regional Office to request from Mr. Frangos a weekly report identifying by name the permits drafted, sent to public notice, and issued by the Division of Environmental Protection.

The Memorandum of Agreement has established an important relationship between the parties for enforcement of permit violations as well as for permit issuance. It gives Wisconsin the first opportunity to take enforcement action for violations of all federally-issued permits except those issued to agencies and instrumentalities of the federal government and for Indian activities on Indian lands. Of course, if the State does not take appropriate enforcement action for violations of either State- or federally-issued NPDES permits the Agreement does not intend to and will not foreclose direct enforcement action in any case where EPA determines that federal enforcement proceedings are warranted.

We note with pleasure that Wisconsin becomes one of the first eight States to receive authority to administer the NPDES program. The Wisconsin DNR has already set a good example by drafting permits during the federal administration of the NPDES program. This achievement is accredited to the energy shown by Mr. Frangos and his staff at the DNR in their efforts to make it possible.

Speaking on behalf of the Environmental Protection Agency and its staff, let me assure you that we will do everything possible to aid you in your commitment to eliminate the blight of water pollution.

Sincerely yours,

[Handwritten signature]

Russell E. Train

Honorable Patrick J. Lucey
Governor of Wisconsin
Madison, Wisconsin 53702

Enclosure

cc: Mr. Thomas G. Frangos, Administrator
Division of Environmental Protection
Wisconsin Department of Natural Resources

bcc: AX (2) OGC Chron
Richard Johnson, AGW Reading
Albert C. Printz, AGW
Valdas V. Adamkus, Deputy RA, Region V
James McDonald, Director, Enforcement Div., Region V

Written by Henry Balikov, Region V, 1/2/74
Rewritten by Henry Balikov and Bob Emmett, AGW, 1/4/74
Rewritten by Henry Balikov and Bob Emmett, AGW, 1/28/74

MEMORANDUM OF AGREEMENT
BETWEEN THE
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

AND

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION V

INTRODUCTION

The Environmental Protection Agency (EPA) Guidelines for state program elements necessary for participation in the National Pollutant Discharge Elimination System (NPDES), 40 CFR 124, prepared pursuant to the authority contained in Section 304(h)(2) of the Federal Water Pollution Control Act Amendment of 1972 (referred herein as the Federal Act) were published in the Federal Register on December 22, 1972. Various sections of the Guidelines permit the chief administrative officer of a state water pollution control agency and the Regional Administrator of EPA to reach agreement on the manner in which the 40 CFR 124 Guidelines are to be implemented.

To satisfy the requirements of the Guidelines, the following procedures are hereby agreed to by the Administrator of the Division of Environmental Protection, State of Wisconsin Department of Natural Resources (referred to herein as the Administrator), and the Regional Administrator.

The sections and subsections of 40 CFR 124 related to these agreements are: 124.22, 124.23, 124.35(b), 124.35(c), 124.41(c), 124.44(d), 124.46, 124.47, 124.61(b), 124.62(c), 124.71(c), 124.72(b), 124.73(b)(2), and 124.80(d). The terms used in this Memorandum of Agreement have the same meaning as those used and defined in 40 CFR 124.1

I. RECEIPT AND USE FEDERAL DATA

- A. The two purposes of this part of the agreement are: (1) to provide for the transfer of data bearing on NPDES permit determinations from the EPA to the Wisconsin Department of Natural Resources and (2) to insure that any significant deficiencies in the transferred NPDES application will be corrected prior to issuance of an NPDES permit.
- B. Commencing immediately after the effective date of this agreement the Regional Administrator will transmit to the Administrator a list of all NPDES permit applications received by EPA. This list will include the name of each discharger, SIC Code, application number and indicate those applications which EPA has determined are administratively complete.

- C. After receipt of the list, the Administrator will indicate the order to be used by EPA to transmit the application files to him. The application file will include the NPDES permit application and any other pertinent data collected by EPA. The application files will be transmitted to the Administrator according to the order indicated. EPA will retain two copies of each file transmitted to the Administrator and route one copy to the Permit Branch and the second to the Regional Data Management Section, Surveillance and Analysis Section.
- D. For an application identified by EPA as not administratively complete, EPA will obtain the necessary information from the discharger and complete the application prior to its transmittal to the Administrator. The Administrator will obtain effluent data and any other additional information for those applications identified by EPA as administratively complete which he deems necessary to update or process the application.
- E. For each application for which additional information was obtained by the Administrator, two (2) copies of each completed application or completing amendments and a cover letter indicating that the application has been determined to be complete will be transmitted by the Administrator to the Regional Administrator, Attention: Permit Branch. One copy will be routed by the Regional Administrator to the Regional Data Management Section, Surveillance and Analysis Division, for processing into the National Data Bank and the other copy will be placed in the NPDES Permit Branch file.

II. TRANSMISSION OF NPDES APPLICATION FORMS TO REGIONAL ADMINISTRATOR

- A. After final approval of Wisconsin's NPDES permit program, the Administrator will assume initial responsibility for determining that applications submitted to the Department after that date are complete. When the Administrator determines that the NPDES forms received from the applicant are complete, two (2) copies of the forms with a cover letter indicating that the forms are complete will be transmitted to the Regional Administrator, Attention: Permit Branch. If EPA concurs with the Administrator, one (1) copy will be routed to the Regional Data Management Section, Surveillance and Analysis Division, through the Compliance Section, Enforcement Division for processing into the National Data Bank and the other copy will be placed in the Regional NPDES Permit Branch file. If the Regional Administrator does not concur that the application is complete, he shall within 20 days notify the Administrator by letter in which respects the application is deficient. No NPDES permit will be issued by the Administrator until the deficiencies are corrected.
- B. After receipt of an NPDES short form application from the Administrator, the Regional Administrator may identify the discharge as one for which an NPDES standard form shall be submitted. The Regional Administrator shall notify the Administrator of any such determination made with respect to any such discharge. After receipt of this determination the Administrator shall require the applicant to submit an NPDES standard application form or any other information requested by the Regional Administrator.

- C. When requested by the Regional Administrator, the Administrator will transmit copies of notices received by him from publicly owned treatment works pursuant to 40 CFR 124.45(d) and (e) and Section 147.14, Wisconsin Statutes, within 20 days of receipt of the request.
- D. The Regional Administrator may waive his right to receive copies of NPDES application forms with respect to classes, types and sizes within any category of point sources and with respect to minor discharges or discharges to particular navigable waters or parts thereof. Such written waiver must be issued by the Regional Administrator before the Administrator can discontinue transmitting copies of NPDES forms to EPA.

III. PUBLIC ACCESS TO INFORMATION

- A. The Administrator will protect any information (other than effluent data) contained in such NPDES form, or other records, reports or plans as confidential upon a showing by any person that such information, if made public, would divulge methods or processes entitled to protection as trade secrets of that person. If, however, the information being considered for confidential treatment is contained in an NPDES form, the Administrator will forward such information to the Regional Administrator for his concurrence in any determination of confidentiality. If the Regional Administrator does not agree that some or all of the information being considered for confidential treatment merits such protection, he will request advice from the Office of the General Counsel, stating the reasons for his disagreement with the determination of the Administrator. The Regional Administrator will simultaneously provide a copy of the request to the Administrator and to the person claiming trade secrecy. The General Counsel will determine whether the information in question would, if revealed, divulge methods or processes entitled to protection as trade secrets. In making such determinations, he will consider any additional information submitted to the Office of the General Counsel within 30 days of receipt of the request from the Regional Administrator. If the General Counsel determines that the information being considered does not contain trade secrets, he will so advise the Regional Administrator and will notify the person claiming trade secrecy of such determination by certified mail. No sooner than 30 days following the mailing of such notice, the Regional Administrator will communicate to the Administrator his decision not to concur in the withholding of such information and the Regional Administrator will then make available to the public, upon request, that information determined not to constitute trade secrets, unless an appeal is made to EPA by the person claiming trade secrecy. Following an appeal, the determination made by EPA will be conclusive unless reviewed in an appropriate district court of the United States.
- B. Any information accorded confidential status, whether or not contained in an NPDES form, will be disclosed by the Administrator, upon written request, to the Regional Administrator, or his authorized representative, who will maintain the disclosed information as confidential.

IV. TRANSMISSION TO REGIONAL ADMINISTRATOR OF PROPOSED NPDES PERMIT

- A. At the time a public notice required by 40 CFR 124.32 and Section 147.09, Wisconsin Statutes, is issued, the Administrator will transmit one copy of the NPDES public notice, the fact sheet (if one is required) and proposed NPDES permit to the Regional Administrator, Attention: NPDES Permit Branch. The information transmitted with the proposed permit will include any and all terms, conditions, requirements or documents which are part of the proposed NPDES permit or which affect the State's authorization of the discharge of pollutants.
- B. The Regional Administrator will be provided 45 days from the time he receives the proposed NPDES permit from the Administrator within which to object to, as provided for in Section 402(d)(2) of the Federal Act, comment upon or make a recommendation with respect to the proposed NPDES permit. Upon request of the Regional Administrator, the Administrator will provide the Regional Administrator additional time for review, provided that the total review period shall not exceed 90 days. The Regional Administrator shall notify the Administrator within the time periods set forth above if EPA objects to or concurs with the issuance by the Administrator of the NPDES permit as proposed.
- C. If a proposed NPDES permit issued with a public notice is modified as a result of comments received by the Department during the thirty-day comment period or as a result of a public hearing, the Administrator will transmit a revised copy of the proposed NPDES permit to the Regional Administrator, Attention: NPDES Permit Branch, and shall specify the reasons for the modifications.

The Regional Administrator shall be provided 45 days from the time he receives the proposed NPDES permit, as revised, within which to object, comment upon or make recommendations with respect to any such revisions. Upon request of the Regional Administrator, the Administrator will provide the Regional Administrator additional time for review, provided that the total review period shall not exceed 90 days. The Regional Administrator shall notify the Administrator within the time periods set forth above if EPA either objects to or concurs with the issuance by the Administrator of the NPDES permit as revised.

- D. Upon receipt of any written comments on any proposed NPDES permit from any State whose waters may be affected by the issuance of such a permit, the Administrator shall consider such written recommendations and may modify the proposed NPDES permit accordingly. If the Administrator fails to accept, in whole or in part, the written recommendations of such a State, he shall immediately notify the Regional Administrator of his reasons for so doing. The Regional Administrator, notwithstanding the provisions of Paragraph B above, shall be provided 45 days from the time he receives such notification from the Administrator within which to object to, comment upon or make recommendations with respect to the issuance of the proposed NPDES permit. Upon request of the Regional Administrator, the Administrator will provide the Regional Administrator additional time for review, provided that the total review period shall not exceed 90 days.

E. No later than 120 days from the date of EPA approval of Wisconsin's NPDES permit program, the Regional Administrator, pursuant to Section 402(e) of the Federal Act, shall consider whether to waive his right to receive, review, object to or comment upon proposed NPDES permits for all industrial discharges into navigable waters with daily discharges of less than 100,000 gallons per day and all discharges from publicly owned treatment works of less than 500,000 gallons per day and for all discharges, irrespective of size, for such categories and classes of point sources as the Regional Administrator shall specify at that time.

The Regional Administrator shall promptly notify the Administrator of his decision. If the Regional Administrator does not respond to the Administrator within this 120-day period, his right to receive, review, object to or comment upon proposed permits of less than the above levels shall be considered waived.

V. TRANSMISSION TO REGIONAL ADMINISTRATOR OF ISSUED NPDES PERMITS

The Administrator will transmit to the Regional Administrator two (2) copies of every issued NPDES permit, Attention: NPDES Permit Branch, together with any and all terms, conditions and requirements of the NPDES permit. The Administrator will transmit the above information, together with a copy of the Administrator's letter to the applicant forwarding the NPDES permit, at the same time the NPDES permit issued by the Department is transmitted to the applicant.

VI. COMPLIANCE REPORTS

On the last day of the months of February, May, August and November the Administrator will transmit to the Regional Administrator, Attention: Compliance Section, Enforcement Division, a list of all instances, as of 30 days prior to the date of such report, of failure or refusal of an NPDES permittee to comply with an interim or final requirement of a schedule of compliance or to notify the Department of compliance or noncompliance with each interim or final requirement. The list will be available to the public for inspection and copying and will contain at least the following information with respect to each instance of noncompliance.

1. The name and address of each noncomplying NPDES permittee;
2. A short description of each instance of noncompliance (e.g., failure to submit preliminary plans, two-week delay in commencement of construction of treatment facilities, etc.);
3. A short description of any action or proposed action by the permittee or the Administrator to comply or enforce compliance with an interim or final requirement; and
4. Any details which tend to explain or mitigate an instance of noncompliance with an interim or final requirement (e.g., construction delayed due to materials shortage, etc.).

VII. MONITORING

- A. Any discharge authorized by an NPDES permit which (1) is not a minor discharge, (2) the Regional Administrator requests, in writing, to be monitored, or (3) contains toxic pollutants for which an effluent standard has been established pursuant to Section 307(a) of the Federal Act, will require monitoring by the permittee for at least the following:
- (i) Flow (in gallons per day); and
 - (ii) All of the following pollutants:
 - a. Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to reduction or elimination under the terms and conditions of the permit;
 - b. Pollutants which the Department finds, on the basis of information available to it, could have significant impact on the quality of navigable waters;
 - c. Pollutants specified by the Administrator of EPA, in regulations issued pursuant to the Federal Act, as subject to monitoring; and
 - d. Any pollutants in addition to the above which the Regional Administrator requests, in writing, to be monitored.
- B. The Regional Administrator may make the request specified in A (2) and (3) above at any time before an NPDES permit is issued.
- C. The Administrator will ensure that the Regional Administrator receives two (2) copies of all NPDES reporting forms submitted to the Department. If the Regional Administrator determines that the NPDES reporting forms are complete, he shall route one copy to the Permit Branch and the second to the Regional Data Management Section, Surveillance and Analysis Division, for processing into the National Data Bank. If the Regional Administrator determines that the NPDES reporting forms submitted to the Department are not complete or are otherwise deficient, he shall specify to the Administrator in which respects the forms are deficient. Upon receipt of the specification of deficiencies, the Administrator shall require the permittee to supply such additional information as the Regional Administrator specifies.
- D. The Administrator will evaluate data submitted by NPDES permittees in NPDES reporting forms and other forms supplying monitoring data for possible enforcement or remedial action.

On the last day of the months of February, May, August and November the Administrator will transmit to the Regional Administrator, Attention: Compliance Section, Enforcement Division, a list of all instances, as of 30 days prior to the date of such report, of each failure or refusal of an NPDES permittee to comply with an interim or final effluent limitation. The list will be available to the public for inspection and copying and will contain at least the following information with respect to each instance of noncompliance.

1. The name and address of each noncomplying NPDES permittee;
2. A short description of each instance of noncompliance;
3. A short description of any action or proposed action by the permittee or the Administrator to comply or enforce compliance with an interim or final effluent limitation; and
4. Any details which tend to explain or mitigate an instance of noncompliance with an interim or final effluent limitation.

VIII. MONITORING RESULTS

During the term of a permit, upon request of the Regional Administrator, the Administrator shall notify and require the permittee to extend the normal three-year retention of monitoring records required under 40 CFR 124.62(c).

IX. RECEIPT AND FOLLOW-UP OF NOTIFICATIONS AND REQUESTS

If the Administrator determines that a condition of a permit to a publicly owned treatment works relating to a new introduction or changes in the volume or character of pollutants introduced into such treatment works is violated, he shall notify the Regional Administrator in writing and consider taking action to restrict or prohibit the introduction of pollutants into treatment works.

X. MODIFICATION, SUSPENSION AND REVOCATION OF NPDES PERMITS

- A. If an NPDES permit is modified, suspended or revoked by the Administrator for good cause, a copy of the proposed modification, suspension or revocation shall be transmitted to the Regional Administrator, Attention: NPDES Permit Branch. The Regional Administrator will be provided 45 days from the time he receives the proposed modification, suspension or revocation from the Administrator within which to object, as provided for in Section 402(d)(2) of the Federal Act, comment upon or make a recommendation with respect to the proposed modification, suspension or revocation.

Upon request of the Regional Administrator, the Administrator shall provide the Regional Administrator additional time for review, provided that the total review period does not exceed 90 days.

- B. If the Administrator, upon request of the permittee, decides to revise or modify a schedule of compliance for good cause, he shall notify the Regional Administrator in writing. The Regional Administrator shall notify the administrator in writing of his acceptance or rejection of such request within 20 days of receipt of the notice.

XI. EMERGENCY NOTICE

The Administrator or his authorized representative will notify the Regional Administrator by telephone as soon as he is notified of any actual or immediate threat to the health or welfare of persons resulting from the discharge of pollutants. The Administrator or his authorized representative will utilize the telephone numbers identified in the current Regional Oil and Hazardous Materials Contingency Plan to notify the Regional Administrator. Telephone contact may be made with either the EPA District Offices or the Regional Offices, as the Administrator determines appropriate.

XII. CONTROL OF DISPOSAL OF POLLUTANTS INTO WELLS

The Regional Administrator shall transmit to the Administrator any policies, technical information, or requirements specified by the Administrator of EPA in regulations issued pursuant to the Act or in directives issued to Environmental Protection Agency Regional Offices.

XIII. OTHER ITEMS

- A. Attached hereto is a list of major dischargers which shall be given priority in processing and a schedule for such processing. This schedule is premised on the availability of guidance material from EPA for dischargers identified. Also attached is a six-month schedule covering all permits to be processed in the six-month period. This is the first part of the schedule aimed at completing all all permits to be issued in the State of Wisconsin by December 31, 1974. The schedule will be expanded by the Department on a quarterly basis thereafter to identify the remainder of the workload until all permits are issued. A copy of each quarterly schedule will be forwarded by the Administrator to the Regional Administrator for review.
- B. After the effective date of this agreement, the Administrator and the Regional Administrator shall pursue additional discussions as to appropriate responsibilities with respect to the input of application and monitoring data into the National Data Bank.
- C. This Memorandum of Agreement may be modified by the Administrator and the Regional Administrator following the public hearing to evaluate the State Program submitted pursuant to Section 402(b) of the Federal Act on the basis of issues raised at the hearing. The hearing record will be left open for a period of five days following the hearing to permit any person to submit additional written statements or to present views or evidence tending to rebut testimony presented at the public hearing. Any revisions of agreements following public hearing will be finalized, reduced to writing and signed by the Administrator and the Regional Administrator prior to forwarding of this Memorandum of Agreement and the recommendations of the Regional Administrator to the Administrator of EPA for review and approval. The Administrator and Regional Administrator will make any such revised agreements available to the public for inspection and copying.

- D. All agreements between the Wisconsin Department of Natural Resources and the Regional Administrator are subject to review by the Administrator of EPA. If the Administrator of EPA determines that any provisions of such agreement do not conform to the requirements of Section 402(b) of the Federal Act or to the requirements of Section 304(h)(2) Guidelines, he will notify the Administrator and Regional Administrator of any revisions or modifications which must be made in the written agreements.
- E. This Memorandum of Agreement will take effect after it has been executed by the Administrator and the Regional Administrator and concurred in by the Administrator of EPA.
- F. This Memorandum of Agreement shall remain in effect until such time as it is modified or suspended.
- G. After the date of approval of Wisconsin's Pollutant Discharge Elimination System Permit Program, the Department shall be primarily responsible for the administration and enforcement of all federally issued NPDES permits issued prior to that date, except those NPDES permits issued to agencies and instrumentalities of the federal government and for Indian activities on Indian lands as provided by 40 CFR 125.2(a)(2).

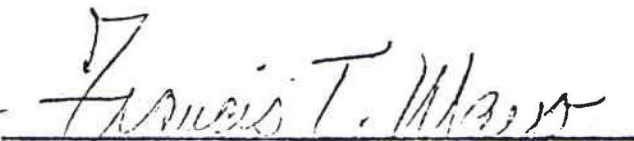
State of Wisconsin
Department of Natural Resources

U.S. Environmental Protection Agency
Region V

By

By



Thomas G. Frangos, Administrator
Division of Environmental Protection


Francis T. Mayo
Regional Administrator

12/19/73
Date

12/17/73
Date

APPROVED:


Administrator
Environmental Protection Agency

2/4/74
Date

DEC 10 1979

John K. Kelly - Leg 1

MODIFICATION TO NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MEMORANDUM OF AGREEMENT BETWEEN THE
WISCONSIN DEPARTMENT OF NATURAL RESOURCES
AND THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION V

The Memorandum of Agreement approved February 4, 1974, by the Administrator of the United States Environmental Protection Agency between the Wisconsin Department of Natural Resources (hereinafter, the "State") and the United States Environmental Protection Agency (hereinafter "USEPA") Region V is hereby modified as follows:

The State will administer the NPDES permit program with respect to Federal facilities and has shown that it has the authority to enter and inspect Federal facilities. The State is responsible for the issuance, modification, reissuance, compliance monitoring and enforcement of all NPDES permits in Wisconsin, including permits applicable to Federal facilities but excluding permits to Indian tribes or tribal organizations discharging from point sources located on Indian lands or reservations in Wisconsin.

All references in the Memorandum of Agreement which have the effect of retaining responsibility to USEPA Region V over Federal facilities have no force or effect after the effective date of this Modification. Nothing in this Modification shall be construed to limit the authority of USEPA to take action pursuant to Sections 308, 309, 311, 402, 504, or other Sections of the Act.

This Modification will become effective upon approval of the Administrator.

WISCONSIN DEPARTMENT OF NATURAL
RESOURCES

By Anthony S. Earl
Anthony S. Earl, Secretary

Date: 22 June 1979

Approved:

Jeffrey J. Miller
Acting Assistant Administrator for Enforcement
United States Environmental Protection Agency

Date: 12/3/79

U.S. ENVIRONMENTAL PROTECTION
AGENCY, REGION V

By John McGuire
John McGuire, Administrator

Date: SEP 28 1979



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

27 NOV 1979

OFFICE OF ENFORCEMENT

Honorable Lee S. Dreyfus
Governor of Wisconsin
State Capitol
Madison, Wisconsin 53702

Dear Governor:

On February 4, 1974, Wisconsin received authority to administer the National Pollutant Discharge Elimination System (NPDES) within its borders. The Environmental Protection Agency's (EPA) approval letter indicated that we would retain authority to issue permits for Federal facilities within the State. The reservation of authority over Federal facilities was necessary because the Federal Water Pollution Control Act (FWPCA) precluded State regulation of these facilities.

The 1977 amendments to the FWPCA specifically authorize the States to administer the NPDES permit program for Federal facilities. Therefore, I hereby approve the State of Wisconsin's request to assume this responsibility, and have, accordingly, approved a modification to the Memorandum of Agreement between the Wisconsin Department of Natural Resources and the U.S. EPA, Region V (copy attached). This approval overrides any contrary language in EPA's February 4, 1974, letter approving the State NPDES program.

We look forward to the administration of the NPDES permit program for Federal facilities by the State of Wisconsin. Region V will be working with the Wisconsin Department of Natural Resources to facilitate the timely transfer of this responsibility.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Jeffrey G. Miller", is written over the typed name.

Jeffrey G. Miller
Acting Assistant Administrator
for Enforcement

Attachments

CC GARDEBRING
BRYSON
GRIMES
MUNO
LEDER
CATE

PRATT
DZIKOWSKI
SPYROPOULOS
NEWMAN
LIN

ORIGINAL IN
PERMIT BRANCH
FILE
12-7-79
am

cc: Mr. Anthony S. Earl
Secretary
Wisconsin Department of
Natural Resources

Mr. John McGuire
Regional Administrator
Region V, EPA

MODIFICATION TO NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MEMORANDUM OF AGREEMENT BETWEEN THE
WISCONSIN DEPARTMENT OF NATURAL RESOURCES
AND THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION V

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All references in the Memorandum of Agreement which have the effect of retaining responsibility to USEPA Region V over Federal facilities have no force or effect after the effective date of this Modification. Nothing in this Modification shall be construed to limit the authority of USEPA to take action pursuant to Sections 308, 309, 311, 402, 504, or other Sections of the Act.

This Modification will become effective upon approval of the Administrator.

WISCONSIN DEPARTMENT OF NATURAL
RESOURCES

By Anthony S. Earl
Anthony S. Earl, Secretary

Date: 22 June 1979

Approved:

Jeff G. Mun
Acting Assistant Administrator for Enforcement
United States Environmental Protection Agency

Date: 12/2/79

U.S. ENVIRONMENTAL PROTECTION
AGENCY, REGION V

By John McGuire
John McGuire, Administrator

Date: SEP 28 1979

WISCONSIN PRETREATMENT APPROVAL

Federal Register / Vol. 45, No. 2 / Monday, January 5, 1981 / Notices

3021

cc PRATT
ROBICHAUD
DZIKOWSKI
SPYROPOULOS

am

FOR FURTHER INFORMATION CONTACT:
George E. Young, Permits Division (EN-396), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION:

Background

The pretreatment program, required by the Clean Water Act of 1977, governs the control of industrial wastes introduced into Publicly Owned Treatment Works (POTWs). The objectives of the pretreatment program are to: (1) prevent introduction of pollutants into POTWs which will interfere with the operation of the POTW or contaminate the sewage sludge; (2) prevent introduction of pollutants into POTWs which will pass through treatment works into receiving waters or the atmosphere or otherwise be incompatible with the works; (3) improve opportunities to recycle and reclaim wastewaters and the sludges resulting from wastewater treatment. Local pretreatment programs will be the primary vehicle for administering,

applying and enforcing pretreatment standards for industrial users of POTWs. The EPA and States approved to administer the National Pollutant Discharge Elimination System (NPDES) Pretreatment Program will enforce the national standards where local governments do not develop a pretreatment program. To receive pretreatment program approval a State must submit to the EPA a modification to its NPDES program pursuant to the requirements and procedures of the General Pretreatment Regulation (40 CFR Part 403).

Federal Register Notice of Approval of State NPDES Programs or Modifications.

Under the Consolidated Permit Regulations (45 FR 33290, May 19, 1980), EPA will provide Federal Register notice of any action by the Agency approving or modifying a State NPDES program. Each notice will include a table similar to the following one, setting forth the current status of program approval. This table will provide the public with an up-to-date list of the status of NPDES permitting authority throughout the country.

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program	
Alabama	Oct. 28, 1979	Oct. 19, 1979	Oct. 19, 1979	2
California	May 14, 1973	May 5, 1979		
Colorado	Mar. 27, 1979			
Connecticut	Sept. 28, 1973			
Delaware	Apr. 1, 1974			
Florida	June 28, 1974			
Hawaii	Nov. 28, 1979	June 1, 1979		
Illinois	Oct. 23, 1977	Sept. 20, 1979		
Indiana	Jan. 1, 1975	Dec. 9, 1979		
Iowa	August 10, 1979	August 10, 1979		
Kansas	June 28, 1974			
Maryland	Sept. 5, 1979			
Michigan	Oct. 17, 1973	Oct. 9, 1979		
Minnesota	June 30, 1974	Dec. 9, 1979	July 24, 1979	✓ 1
Mississippi	May 1, 1974			
Missouri	Oct. 30, 1974	June 29, 1979		
Montana	June 19, 1974			
Nebraska	June 12, 1974	Nov. 2, 1979		
Nevada	Sept. 18, 1975	August 31, 1979		
New York	Oct. 28, 1976	June 13, 1980		
North Carolina	Oct. 18, 1975			
North Dakota	June 13, 1975			
Ohio	Mar. 11, 1974			
Oregon	Sept. 20, 1973	Mar. 2, 1979		
Pennsylvania	June 28, 1979	June 30, 1979		
South Carolina	May 10, 1975	Sept. 28, 1980		
Tennessee	Dec. 28, 1977			
Vermont	Mar. 11, 1974			
Virgin Islands	June 28, 1974			
Virginia	Mar. 31, 1979			
Washington	Nov. 14, 1973			
Wisconsin	Feb. 4, 1974	Nov. 28, 1979	Dec. 24, 1980	3
Wyoming	Jan. 30, 1975			

(EN-FRL 1717-8)

Wisconsin Pretreatment Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of the National Pollution Discharge Elimination System Pretreatment Program of the State of Wisconsin.

SUMMARY: On December 24, 1980, the Environmental Protection Agency approved the State of Wisconsin's National Pollutant Discharge Elimination System State Pretreatment Program. This action enables the State of Wisconsin to assume primary control over the Pretreatment Program.

Dated: Dec. 2, 1980.

Douglas M. Costle,
Administrator.

PR Dec. 29-4985 Filed 12-31-80; 9:45 am
JLL:BS COKE 0985-32-11

Modification to National Pollutant Discharge Elimination System
Memorandum of Agreement Between the State of Wisconsin Department of
Natural Resources (hereafter the State) and the United States Environ-
mental Protection Agency, Region V (hereafter the U.S. EPA).

The Memorandum of Agreement approved February 4, 1974 by the Administrator of the U.S. EPA between the State and the U.S. EPA is hereby modified to define State and U.S. EPA responsibilities for the establishment and enforcement of National Pretreatment Standards for existing and new sources under Section 307(b) and (c) of the Clean Water Act (hereinafter the Act) as follows:

The State has primary responsibility for: (a) enforcing the prohibited discharge standards contained in 40 CFR Section 403.5; (b) applying and enforcing National Pretreatment Standards established by the U.S. EPA in accordance with Section 307(b) and (c) of the Act; (c) reviewing, approving and overseeing pretreatment programs developed by Publicly Owned Treatment Works (POTW) in accordance with 40 CFR Section 403.11; (d) requiring, as provided for in 40 CFR Section 403.9 and Section 402(b)(8) of the Act, development of a pretreatment program as a condition of NPDES permits issued to POTW's; (e) reviewing and approving modification of categorical pretreatment standards to reflect removal of pollutants by a POTW and enforcing related conditions in the POTW's NPDES permit. The U.S. EPA will overview State pretreatment program operations consistent with 40 CFR Part 403 regulations and this Memorandum of Agreement.

The State shall perform inspection, surveillance and monitoring procedures to determine independent of information supplied by the POTW, compliance or noncompliance by the POTW with pretreatment requirements incorporated into the POTW's permit. The State shall also perform inspection, surveillance and monitoring procedures to determine independent of information supplied by the industrial user, whether the industrial user is in compliance with Pretreatment Standards. The number of inspections to be performed shall be agreed upon as part of the annual section 106 program plan process.

The Regional Administrator will be provided 45 days from the time he receives a proposed NPDES permit or permit modification containing pretreatment requirements within which to comment upon or make a recommendation with respect to the proposed NPDES permit or modification. The Regional Administrator shall notify the State within the time period set forth above if EPA objects to the issuance by the State of the NPDES permit or modification, as proposed. Upon receipt of a general objection to a proposed permit the state shall allow an additional 45 days for the Regional Administrator to file a specific objection.

Section 403.6 National Pretreatment Standards: Categorical Standards

The State shall incorporate into the Wisconsin Administrative Code categorical pretreatment standards which are neither more nor less stringent than those promulgated by the U.S. EPA.

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Until such time as the provisions of 40 CFR Section 403.6 are revoked or modified, the State shall review requests from industrial users which solicit certification as to whether or not the user falls within a particular industrial subcategory. After making a written determination on the request, the state shall submit its findings, together with a copy of the request and the necessary supporting information to the U.S. EPA Regional Enforcement Division Director for concurrence. If the Enforcement Division Director does not modify the State's decision within 60 days of receipt thereof, the State's finding shall be final. Where the Enforcement Division Director elects to modify the State's decision, the Enforcement Division Director's decision shall be final. Where the final decision is made by the Enforcement Division Director, he shall send a copy of this determination to the requestor and to the State.

Section 403.7 Consistent Removal Credits and Section 403.9 POTW Pretreatment Program Approvals

The State shall review POTW applications for consistent removal credits and requests for approval of POTW Pretreatment Programs. It shall submit its findings together with the application and supporting information to the U.S. EPA Regional Enforcement Division Director for review. No POTW Pretreatment Program or request for consistent removal credits shall be approved by the State if during the 30 day (or extended) evaluation period provided for in 40 CFR Section 403.11(b)(1)(ii), the U.S. EPA objects in writing to the approval of such submission. The State will as soon as possible adopt the administrative rules necessary to approve POTW applications for consistent removal credits. Until such rules have been enacted, the State will recommend approval or denial of the POTW application to U.S. EPA Regional Enforcement Division Director.

Section 403.13 Variances From Categorical Pretreatment Standards for Fundamentally Different Factors

The State shall make an initial finding on all requests from industrial users for variances from categorical Pretreatment Standards, where the request is based on the allegation of the existence of fundamentally different factors. Where the State's initial finding is to approve the request, the finding, together with the request and supporting information shall be forwarded to the U.S. EPA Regional Enforcement Division Director for a final determination. The State may deny, but shall not approve a fundamentally different factor request until written approval has been received from the Enforcement Division Director. The State will as soon as possible adopt the administrative rules necessary to approve and deny requests for fundamentally different factors variances. Until such rules have been enacted, the State will recommend approval or denial of the request to the U.S. EPA Regional Enforcement Division Director.

Miscellaneous

The State shall submit a list of municipalities which will be required to fully develop their own pretreatment programs. This list may be

revised from time to time and the additions or deletions will not require modification to the Memorandum of Agreement. No municipality shall be deleted from the list without the approval of the U.S. EPA Regional Enforcement Division Director.

Nothing in this agreement is intended to affect any Pretreatment requirements including any standards or prohibitions, established by state or local law as long as the state or local requirements are not less stringent than any set forth in the National Pretreatment Standards, or other requirements or prohibitions established under the Act or this regulation.

Nothing in this Modification shall be construed to limit the authority of U.S. EPA to take action pursuant to Section 204, 208, 301, 304, 306, 307, 308, 309, 311, 402, 404, 405, 501, or other Sections of the Clean Water Act of 1977 (33 USC §1251 et seq).

This Modification will become effective upon approval of the Administrator.

DEPARTMENT OF NATURAL RESOURCES

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION

By

Anthony A. Pae

By

John M. Smith

Date:

25 Feb. 1980

Date:

MAY 2 1980

Approved:

Stephen L. Linder

Administrator

United States Environmental Protection Agency

DEC 24 1980

Date:

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